

Appn. Ser. No.: 09/835,649
Atty Docket No.: 00-VE24.35
Customer No.: 32127

REMARKS

Applicant submits this Response in response to the Office Action mailed June 14, 2005. Applicant has amended claims 1-3, 7, 9-11, 13, 14, 25-45, 48, 49, 51-55 and 57, and canceled claims 6 and 18-24 (without prejudice to re-presenting the subject matter of these claims at a later time). Claims 1-3, 7-17 and 25-57 are currently pending. No new matter has been added.

Applicant thanks the Examiner for indicating the allowability of claims 25-45 and 48-57, and the allowability of claims 9-11 if rewritten in independent form. Applicant has amended claim 9 to include all of the limitations of base independent claim 1 and intervening dependent claim 6, and respectfully requests that the Examiner indicate the allowability of claim 9 and claims 10-11 (which depend from claim 9).

In the Office Action, the Examiner rejected claims 9-11, 39-45 and 57 under 35 U.S.C. § 112, ¶ 2, as being indefinite. The Examiner also rejected claims 1, 2 and 6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,568,181 to Greenwood et al. ("Greenwood"). The Examiner has also rejected claims 3, 7-8, 17, 46 and 47 under 35 U.S.C. § 103(a) as being unpatentable over Greenwood in view of U.S. Patent No. 6,775,271 to Johnson et al. ("Johnson"). The Examiner has also rejected claims 12, 13 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Greenwood in view of U.S. Patent No. 6,185,187 to Ghanwani et al. ("Ghanwani"). The Examiner has also rejected claims 14, 15, 18, 19 and 22 under 35 U.S.C. § 103(a) as being unpatentable over Greenwood in view of U.S. Patent No. 6,483,805 to Davies et al. ("Davies"). The Examiner has also rejected claims 20, 21 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Greenwood in view of Davies and further in view of Ghanwani. The Examiner has also rejected claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Greenwood in view of Davies and further in view of Johnson. As Applicant has cancelled claims 6 and 18-24, the rejections as to these claims is moot. Applicant respectfully traverses the rejection of the remaining claims based on the following:

¹ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not

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With respect to the objections and rejections under 35 U.S.C. § 112, Applicant has amended the claims to correct the various informalities noted by the Examiner in the claims. Applicant respectfully requests that the Examiner withdraw the objections and rejections in light of these amendments.

With respect to the rejections of claims 1-17 and 46-47 under 35 U.S.C. § 102 and § 103, Applicant requests reconsideration in light of Applicant's amendments and remarks herein. Specifically, claim 1 recites a method that includes:

- determining unused bandwidth on a common link of an access data network carrying subscriber traffic and over which a central content server located in a hub site and at least one local content server located in a central office communicate; and
- transmitting content data stored on the central content server to the at least one local content server substantially on the determined unused bandwidth;
- transmitting the content data stored on the at least one local content server to at least one end user terminal proximate to the at least one local content server;
- examining transmissions from the at least one end user terminal to distinguish transmission types;
- forwarding each transmission of a first transmission type to a first network domain; and
- forwarding each transmission of a second transmission type, different from the first transmission type, to a second network domain logically separate from the first network domain.

The cited references neither teach nor suggest a method that includes all of the elements of claim 1. For example, none of the cited references teach "examining transmissions from the at least one end user terminal to distinguish transmission types; forwarding each transmission of a first transmission type to a first network domain; and forwarding each transmission of a second transmission type, different from the first transmission type, to a second network domain logically separate from the first network domain," as recited in claim 1. The absence of at least these elements of claim 1 from the cited references indicates that claim 1 is patentable over these references, and Applicant therefore respectfully requests that the Examiner withdraw the

a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.

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rejection of claim 1. As claims 2-3 and 7-17 depend from claim 1, and therefore include all of the limitations of claim 1, Applicant believes claims 2-3 and 7-17 to be patentable over the cited references for at least the same reasons as claim 1,² and respectfully requests that the Examiner withdraw the rejections of claims 2-3 and 7-17 as well.

Claim 46, although of different scope than claim 1, includes the elements noted above as present in claim 1 and not found in the cited prior art. The absence of at least these elements of claim 46 from the cited references indicates that claim 46 is patentable over these references, and Applicant therefore respectfully requests that the Examiner withdraw the rejection of claim 46. As claim 47 depends from claim 46, and therefore include all of the limitations of claim 46, Applicant believes claim 47 to be patentable over the cited references for at least the same reasons as claim 46, and respectfully requests that the Examiner withdraw the rejection of claim 47 as well.

² As Applicant's remarks with respect to the base independent claims are sufficient to overcome the Examiner's rejections of all claims dependent therefrom, Applicant's silence as to the Examiner's assertions with respect to dependent claims is not a concession by Applicant to the Examiner's assertions as to these claims, and Applicant reserves the right to analyze and dispute such assertions in the future.

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CONCLUSION

In view of the foregoing, Applicant respectfully submits that the pending claims are in condition for allowance. Reconsideration and allowance are respectfully requested. If there are any outstanding issues which need to be resolved to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned representative by phone at the number indicated below to discuss such issues. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. With respect to this application, please charge any other necessary fees and credit any overpayment to that account.

Respectfully submitted,



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October 14, 2005

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